IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 20TH DECEMBER 2006 / 29TH AGRAHAYANA 1928

Crl.MC.No. 4089 of 2006()

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ST.3059/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, PALAKKAD

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PETITIONER/ACCUSED:

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K.K.MOHANDAS, GIRIJA SADAN,
S.N.NAGAR, MALAMPUZHA, PALAKKAD.

BY ADV. SRI.VINOD KUMAR.C

RESPONDENTS:

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STATE REPRESENTED BY S.I.OF POLICE,
MALAMPUZHA, THROUGH PUBLIC PROSECUTOR,
HGIH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J**

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Crl.M.C.No.4089 of 2006

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Dated this the 20th day of December 2006

**O R D E R**

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. He had entered appearance before the learned Magistrate. He was enlarged on bail. Later, as he could not appear before the learned Magistrate, warrant of arrest has been issued against the petitioner. Coercive steps under Sections 82 and 83 has also been taken against the petitioner. The petitioner apprehends that he may be detained in custody if he appears and applies for bail before the learned Magistrate. The learned counsel for the petitioner, in these circumstances, prays that directions under Section 482 Cr.P.C may be issued in favour of the petitioner directing the learned Magistrate to release the petitioner on bail, when he surrenders.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate.

3. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the learned Public Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are compelling reasons.

Hand over copy of this order to the learned counsel for the petitioner.

**(R.BASANT, JUDGE)**

jsr

**R.BASANT, J**

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006